IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPEALLTE JURISDICTION.

CRIMINAL APPEAL NO. 324 OF 2002

Vithal Eknath Adlinge ....Appellant.
V/s (Orig.Accd.)
The State of Maharashtra ....
Respondents.

Mr.A.P.Mundrgi with Mr.K.S.Patil, Adv. for the appellant.

Mr.P.S.Hingorani, APP for the State.

CORAM: V.G. PALSHIKAR
AND
SMT.NISHITA MHATRE, J.

20th Oct., 2006.

ORAL JUDGMENT: (Per Palshikar, J.)

Being aggrieved by the judgment and order of conviction and sentence passed by the learned Additional Sessions Judge, Greater Bombay in Sessions Case No.842 of 1986 on 11.03.2002 the appellant-accused has preferred this appeal on the grounds mentioned in the memo of appeal as also verbally canvassed before us.

2. With the assistance of the learned Advocate for the appellant as also the learned Public Prosecutor we have scrutinized the entire evidence on record and reappreciated the same.

3. The prosecution case is that on 13.2.1986 Police Head Constable Dinkar Shankar Dumbre (P.W.1) was attached to Railway Police Head Quarters at Ghatkopar. At the relevant time, his nature of work was to

receive the telephonic message from outside and convey the said message to the Railway Reserve Inspector. On 13.2.1986 at about 18.45 hrs. Mr.Gavade Head Constable came and informed Dinkar Dumbre (PW1) that in Room No.41 of building No.24, one lady is lying in injured condition in a pool of blood. The said constable also informed that he came to know about the said fact from the ladies residing in the said building. On receipt of this message PW1 Dinkar Dumbre proceeded to the place of incident. He noticed one lady lying in pool of blood in the bath room of the house. PW1 Dinkar Dumbre appointed one police constable to guard the said place of incident and he proceeded to inform the said fact to RSI Caze. PW1 Dinkar Dumbre also informed the above said fact to Tilak Nagar police station. The police from Tilak Nagar police station arrived at the place of incident. The statement of PW1 Dinkar Dumbre was recorded by Tilak Nagar police which was treated as First Information Report.

4. The prosecution examined 12 witnesses to prove its case. The learned trial Judge on appreciation of this evidence came to the conclusion of guilt and consistent with that conclusion sentenced the accused to suffer imprisonment for life. It is this order and judgment of conviction and sentence which is impugned in this appeal.

5. Learned advocate appearing on behalf of the appellant-accused assailed the order basically on the ground of several contradictions and

omissions which existed in the prosecution evidence. According to him none of the witnesses were liable to be believed and the prosecution utterly failed to make out any case. He took us through the evidence of each witness pointing out how the evidence of that witness is liable to be rejected. His submissions were countered by the learned Additional Public Prosecutor appearing on behalf of the State who pointed out that the contradictions and omissions which may exist are natural and there is no illegality or procedural error in the judgment of conviction. It need not be interfered with. We have to appreciate these contention in the light of evidence as reappreciated by us.

6. PW1-Dinkar Dumbre is the Head Constable. He came to know from the vicinity of the victim's house that such an incident had occurred therefore he went to the spot to find out what has happened and then lodged First Information Report. He has deposed that when he went to the spot he found the door of the room was closed and latched. On entering the house he saw the victim lying in bathroom in a pool of blood and the grinding stone (pata) was there in the bathroom. This is what he has stated in the FIR. This witness is a police official and has truthfully deposed as to what he saw at the spot. PW2-Yashwant Gawde was in his house when in the evening some ladies of the vicinity came to him and told him that the victim was lying in injured condition in a pool of blood. He went to the spot and found

that the information given by the ladies was true. He informed the police what he saw and it was on information by him that PW1-Dinkar Dumbre came to the spot. According to this witness therefore when he went to the spot the victim was lying dead in a pool of blood.

7. PW3-Vijaya Nikam is witness who was staying in the neighborhood. She is supposed to be a witness to the presence of the accused in his room on 13.2.1986. However she did not stick to the statement made to police officer and was declared hostile by the prosecution. PW4-Gayasuddin Shaikh is another police constable who tried to search the accused on the date of incident but could trace him. PW5-Leela Gode is neighboring lady. She deposed that on 13.2.1986 the accused visited her house along with the victim and the victim wanted to sell some bed sheets to the witness. Later on in the day she was informed that the house of the victim was closed. She went there and saw Lata having fallen down on the floor. She does not support the prosecution case any further.

8. PW6-Vasant Deokar is the brother of the victim and he has deposed at length of the manner in which the accused assaulted the victim and harassed her. He speaks of making complaint against the accused before the police in the year 1984. He also speaks of demand of Rs.7000/- by the accused. This witness has thus proved the harassment rendered to the victim by the accused prior to the incident.

To the same effect is the evidence of PW7-Indubai Deokar who is mother of the victim. PW8-Ramchandra Ghuge is the police sub inspector to whom the accused is alleged to have made a confession. That part of the evidence of this witness need not be considered. He arrested the accused.

9. PW9 is the Doctor Prabhakar Bhave who has proved the cause of death as homicidal and has stated that the injuries existing on the head of the victim are possible by banging the head on the wall. PW10-Ranjana Gorde has turned hostile and therefore her evidence is of no consequence. PW11-Baban Yadav is the investigating officer and PW12-Pandurang Kanse is the panch witness who seized the clothes of the accused. It was on appreciation of this evidence that the learned trial Judge convicted the accused as aforesaid. We have also scrutinized the impugned judgment. As we have observed on our reappreciation of the evidence above that the prosecution has successfully proved the following circumstance:

i) That the accused and the victim were last seen together;

ii) The victim was lying dead in the pool of blood and the accused was not there;

iii) Previous enmity and therefore intention to kill is proved;

iv) Pws 6 and 7 clearly refer to the conduct of the accused for ill treating and harassing the victim prior to the date of incident.

All these circumstances coupled with the fact that the clothes of the accused were blood stained with the blood group of `O' which is the blood group of the victim complete the chain of circumstances, relying on each of which the learned trial Judge convicted the accused. We also are of the same opinion. In our opinion, the prosecution has proved each link in the chain of circumstances and each circumstance point out unfavouringly to the accused as being the person responsible for homicidal death of the victim. In our opinion, there is no substance in this appeal. The same deserves to be dismissed and is accordingly dismissed.